

In re Appln. of H.W. Holland-Letz
Application No. 09/963,330

REMARKS

Applicant wishes to thank the Office for the courtesies extended to him by Examiners Williams and Knight in a telephonic interview conducted on March 5, 2004. In the interview, the status of the pending Office Action as final and the applied references were discussed. This Response is being filed in view of the interview.

Applicant has carefully reviewed and considered the Office Action dated January 27, 2004, and the references cited therein. Applicant believes that the application is in condition for allowance. Accordingly, favorable reconsideration in light of the following remarks is respectfully requested.

At the outset, applicant respectfully submits that the pending Office Action should not have been made final. This is the first Office Action issued after applicant filed a Request for Continued Examination (RCE) on December 15, 2003. After the RCE, the pending claims included newly presented claims 114-119. As such, entry of a final rejection after the filing of an RCE is improper in this case because all the claims are not drawn to the same invention previously claimed. *See* MPEP §§ 706.07(h)(VIII.) and 706.07(b). Applicant respectfully requests that if this application is not passed on to issuance, that the status of the pending Office Action as final be removed and prosecution continue thereon.

Turning to the substantive rejection, pending claims 80-119 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kopelman in view of U.S. Patent No. 375,773 to Rockwell. It is respectfully submitted that the applied references do not anticipate or render obvious pending claims 80-119.

With respect to claim 80, there is no motivation to combine Kopelman and the secondary reference, Rockwell. In fact, such a combination would impermissibly run contrary to one of Kopelman's intended purposes for his invention, namely "to provide a type of ergonomic handle of the kind described for accommodating those who are both left and right hand dominant" (i.e., a "universal, ergonomic handle"). Kopelman, col. 2, lines 1-12. Modifying Kopelman to include the claimed center part that is asymmetrical relative to a plane including the maximum point of the convex portion and the longitudinal axis would render the modified Kopelman handle unsatisfactory for its intended purpose of providing a universal handle. Furthermore, the structure of Rockwell used in the proposed modification, namely the front and rear thumb faces b, c, is arranged such that the faces are arranged as on handles intended for right-handed users; the angles of the faces b, c are reversed when the handle is adapted for a left-handed user. *See* Rockwell, page 1, col. 80-85. Thus, the proposed modification would impermissibly result in a handle that is unsuitable for use by both a right-handed and a left-handed user. M.P.E.P. §

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2143.01. As such, the proposed modification would impermissibly "destroy" the invention of Kopelman and is unsupportable by the applied art.

Furthermore, even if modifying the Kopelman handle with the thumb faces b, c of the Rockwell handle as set forth in the Office Action were appropriate, such a modification would not result in the claimed invention which recites a center part having a convex portion. The Rockwell thumb faces are concave so that the thumb can firmly engage them. Rockwell, page 1, lines 64-74. Also, the references do not teach or suggest a finger section having a curvature radius that is greater than that of the palm section.

Accordingly the Section 103 rejection should not be applied to any of the pending claims.

Conclusion

The application is considered to be in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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